

February 19, 2014

To: Teller County Planning Commission
Teller County Planning Department

Subject: Divide Planning Committee Response for LUR-00042(13); project name:
Amend Section 1.7.D and Appendix B (Divide Maps)

The responsibility of the Divide Planning Committee (DPC) is to advise those empowered to render decisions, in this instance the Teller County Planning Commission (TCPC). The DPC was unable to reach a unanimous conclusion in reference to the proposed Land Use Regulations Text Amendment, therefore we have enclosed both opinions for your consideration.

The Divide Planning Committee (DPC), in open meetings, met on several occasions to review the Land Use Regulations (LUR) Text Amendment application and all available information submitted with the application. The DPC was first presented the LUR Text Amendment by the applicant on February 5, 2014 and the opposing opinion by Doug Pearson on February 12, 2014. The DPC also reviewed the LUR Text Amendment itself, various maps, past and present, and the Divide Regional Plan. The DPC, through a quorum of our members, having analyzed and discussed the merits of the above mentioned Application as it pertains to the adopted Divide Regional Plan submit the enclosed opinions.

The current Divide Planning Committee members are:

Mick Bates
Vanessa Haakenson
Dee Dee Hurst
Jim Irving
Bryan Johnson
Jeff Schlumpf
Allen Schultz
Candy Shoemaker
Zug Standing Bear
Joanne Thies
Brandy Williams

February 19, 2014

To: Teller County Planning Commission
Teller County Planning Department

Subject: Land Use Regulations Text Amendment
File: LUR-00042(13)

The Divide Planning Committee (DPC), through a quorum of our members, have reviewed and discussed the merits of the afore mentioned Land Use Regulations (LUR) Text Amendment. A majority of the DPC, having first been presented the Land Use Regulations Text Amendment by the applicant on February 5, 2014, the opposing opinion on February 12th, and having reviewed the Land Use Regulations Text Amendment, various maps, past and present, and the Divide Regional Plan have established the following opinions.

1. Per the Divide Regional Plan:

I. VISION

An Excerpt from Paragraph 7:

“The flavor of this community is defined and guided by community input...”

While the intent of the Text Amendment appears to be to bring about the definition of the “Town” and “Rural Resort”, the amendment itself was not brought forward by the community. We realize that there may have been hurdles in the past to prevent this conversation, but now that the DPC is in place and the community conversation has begun, we do not feel that this Text Amendment is the best course to move this conversation forward.

2. Per the Divide Regional Plan:

VII. FUTURE

Might this request be appropriate if modified or implemented at some future date?

The consensus of most of those present at the February 12, 2014 Divide Planning Committee meeting was that the terms “Town” and “Rural Resort” need a definition. If in the future the Text Amendment was to define those terms, rather than remove those terms we would most likely be in favor of the Text Amendment, provided that the definitions came about with broad community participation.

3. Per the Divide Regional Plan:

Addendum "B"

CRITERIA FOR AMENDING THE DIVIDE REGIONAL GROWTH AND
CONSERVATION MAPS FOR RECREATIONAL USE AND ALL CONDITIONAL
USE PERMITS ON RURAL LANDS

I. EXISTING USES

Existing uses – should be encouraged to succeed and improve facilities and operations.
This DOES NOT necessarily mean encouraging expansion.

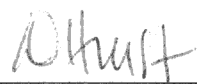
The land designations of "Town" and "Rural Resort" are existing and have been for over a decade. We feel that removal of the terms at this time would be disingenuous to those land owners who have, and have had, this designation for approximately sixteen (16) years.

Committee Member Comments:

1. The term "Rural Resort" is fitting for the 5 or 6 properties that currently have that designation. These properties fit the current definition of "Resort", however they are definitely "Rural" and the designation "Rural Resort" should be left on the Divide Regional Growth and Conservation Map.
2. The terms "Town" and "Rural Resort" should not be removed as a property designation and have a moratorium placed upon them until they are defined. Since these terms have been listed on the map in question for approximately sixteen (16) years, a precedent has already been set. The owners of the properties in question may have bought the property or assumed certain benefits for their property based on these designations used on the maps. With this in mind, the removal of the terminology may cause harm to these property owners.


Mickey L. Bates 2-18-14

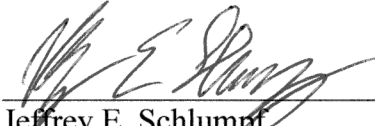
Date


Diana Hurst 2/19/14

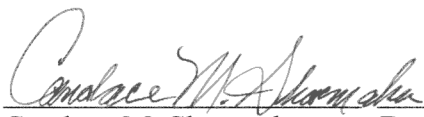
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Bryan Johnson 2/19/14

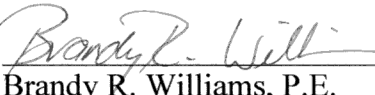
Date


Jeffrey E. Schlumpf 2/19/14

Date


Candace M. Shoemaker 2/20/14

Date


Brandy R. Williams, P.E. 2/19/14

Date

Response In Favor of Application

19 Feb 2014

Application (file #) LUR-00042(13)

Members of the Divide Planning Committee (DPC) in favor of this application and recommend approval by the Teller County Planning Commission submit the following opinions.

Summary In Favor of the Application

In support of the application and recommend its approval by the Teller County Planning Commission.

The application requests changes to Teller County Land Use Regulations section 1.7.D to require terms used on any figure, table, illustration, graphic depiction, legend, label or caption be defined and explained. It is proper and correct that terms used in regulatory documents be defined and explained so all who read the regulations have the same understanding of their meaning.

The application also asks that the Legend item “TOWN (potential development) OR RURAL RESORT (rural lifestyle protection area)” be removed from the two Divide Growth and Conservation Maps due to the term *Rural Resort* is not defined. The purpose of those Divide Maps is to identify where growth should and should not happen using the six Functional Planning Areas identified in the Teller County Growth Management Plan (section VI). The six functional planning areas are accommodated and accounted for in the Divide Regional Plan and the two Divide maps without use of the Legend item identified above. Thus removing the Legend item is the right action to take to prevent confusion based on undefined terms.

With the removal of the aforementioned legend item, it is proper to then change the properties on the map that refer to that legend item. Changing the maps will in no way alter the permitted use of the affected properties.

Finally, the application requests a moratorium on the use or reference of the term Rural Resort until such time as that term is defined. Using a term that no one knows what it means is also a logical action to take and gets our support.

The Application

Paraphrased, the subject application asks for a number of changes to the Teller County Land Use Regulations (TCLUR) related to removing the undefined term *Rural Resort*. The requested changes (paraphrased) are:

- Remove Town or Rural Resort from the legend of the Divide Region map
- Remove Town or Rural Resort from the legend of the Divide Town map
- Remove the green-bar shading on properties identified as Town or Rural Resort on the Divide Region map
- Remove the green-bar shading on properties identified as Town or Rural Resort on the Divide Town map

- Impose a moratorium on the use and reference to Rural Resort until that term is defined
- Add text to TCLUR section 1.7.D to ensure in the future terms are defined.

The Maps

There are two Growth and Conservation Maps included in the Divide Regional Plan (DRP) document. They are identified and carry the titles: Map 1 - "Divide Region Growth and Conservation Map and Map 2 – Divide Town Growth and Conservation Map. That document was adopted by Teller County on August 8, 2006. Those two maps are included and legislatively adopted into the TCLUR Appendix B. Subsequent changes to those maps have been incorporated into TCLUR Appendix B. The maps in the DRP are valid historical reference but should not be considered current – use the TCLUR Appendix B maps as being current.

The two official Divide Growth and Conservation Maps in TCLUR Appendix B, as their names imply, serve the purpose of identifying where in the Divide Region and Divide Town future growth is encouraged and where it is discouraged by designating land within the six Functional Planning Areas identified in the Teller County Growth Management Plan document dated April 3, 1990.

Those two maps both include a comment and a Note, reiterated below:

NOTE: Terms in parentheses refer to the Functional Planning Areas defined in the Teller County Growth Management Plan.

This map provides general information concerning land use. For information regarding a specific property or properties, refer to the Teller County Planning Department. This map does NOT meet National Mapping Accuracy Standards

For those maps, the important words in the map legends are those that identify which of the six Functional Planning Areas each Legend item (map marking scheme) is applicable; these are the words in parenthesis, not the designation words outside the parenthesis. The words outside the parenthesis are there to simplify reference to the text of the Divide Regional Plan.

Functional Planning Areas

Per the Teller County Growth Management Plan -

All land in Teller County will be placed into functional planning areas. This land classification and "utilization area" strategy is provided for under Colorado Revised Statute Chapters 3.28.106 et. seq. and 29.20.104 et. seq. ¹

Each of the planning areas have specific objectives and criteria which distinguish it from other areas. Specific parcels of land may initially be located within one functional planning area and later be identified within another when the objectives and criteria of that area have been met. ²

Refer to the Teller County Growth Management Plan, Section VI for *Criteria and Objectives for Functional Planning Areas*. There are six Functional Planning Areas; three classified as *growth areas*

¹ Teller County Growth Management Plan, April 3, 1990 Section VI – Growth Management Strategy; page 14.

² Teller County Growth Management Plan, April 3, 1990 Section VI – Growth Management Strategy; page 15.

and three classified as *limited growth areas*. The six functional planning areas are:

- Growth Areas:
 - Community centers and surrounding mixed use activity areas
 - Older established neighborhoods, existing, and/or approved activity areas
 - Potential development activity areas
- Limited Growth Areas:
 - Fringe protection areas
 - Resource, environmentally sensitive/significant protection areas
 - Rural life-style protection area

The Divide Regional Plan recognizes all six Teller County Functional Planning Areas. The following list associates the six functional planning areas with the term used to designate it in the Divide Regional Plan.

- Growth Areas (growth in Divide is directed to the Town Center)
 - Community centers – designated as TOWN CENTER COMMERCIAL
 - Older established neighborhoods – designated as TOWN RESIDENTIAL – EXISTING
 - Potential development * – designated as TOWN RESIDENTIAL – NEW
- Limited Growth Areas (out side the Divide town center)
 - Fringe protection – designated as RURAL LANDS
 - Resource, environmentally sensitive/significant protection – also designated as RURAL LANDS
 - Rural life-style * – designated as RURAL RESIDENTIAL

* The Potential development and Rural life-style functional planning areas have two designations on the Divide maps. The two maps include the legend item TOWN (potential development) OR RURAL RESORT (rural lifestyle protection area), but these are not substantiated with text in the DRP document. This is the source of the confusion and is discussed later.

Note: the designation used on the Divide Town map for the Potential development, which is TOWN RESIDENTIAL – NEW is probably not the best wording because potential development should not be limited to residential within the town center which that designation implies. The wording for this designation should be reviewed for possible change, but that is not associated with this application.

The DRP designates two of the Limited Growth Functional Areas: Fringe Protection Areas and Resource, Environmentally Sensitive Areas as *Rural Lands*; and Rural Lifestyle Protection Areas is designated as *Rural Residential*. Do not confuse the Divide Plan's Rural Residential designation with the Teller County Zone by the same name.

The Functional Planning Area “potential development” is in the Growth category (per the Teller County Growth Management Plan) for functional planning areas and has no business being associated with land designations outside the Divide Town Center, where the DRP directs growth to happen.

The Functional Planning Area “rural life-style protection area” is one of the Limited Growth categories (per the Teller County Growth Management Plan), belongs to land outside the Divide town center and

the DRP designates this functional planning area as *Rural Residential*.

Teller County does not need two designations on the maps for a single Functional Planning Area. Thus, one of the designations (the Rural life-style protection area designated Town or Rural Resort) can be removed. That item is redundant and confusing with the Rural Residential designation legend item.

Removing the legend item TOWN (potential development) OR RURAL RESORT (rural life-style protection area) on the Divide Region Growth and Conservation Map would revert the properties identified on that map to the Rural Lands designation. That designation change would not impact those properties from how they are operated today. They lose no usage rights based on the Rural Lands section in the DRP.

Remember that the purpose of the two Growth and Conservation Maps is to associate properties with the six Functional Planning Areas to identify where growth should be directed and where growth is not desired. The maps purpose is not a business directory to identify where resorts are located. What comes next, do we add gas stations locations to appear on the maps? Different maps have different purposes. The purpose of these maps is clear.

Divide Regional Plan Property Designations

RURAL LANDS – referring to the DRP, Rural Lands are defined in Section II – Definitions and they are discussed in Section III – Goals and Policies. In Section III, Item C5 and sub-items, the Rural Lands designation authorizes recreational uses (as defined in Section II). So, according to the DRP the designation Rural Resort is not necessary because properties designated Rural Lands can be used for recreational facilities.

The Divide Regional Plan includes the following statements:

RECREATIONAL USES — includes but is not limited to public and private, profit or non-profit recreational activities, recreational facilities, recreation camps, summer camps, church camps, campgrounds and resorts as these terms are commonly understood and as may be defined in Teller County regulations. Additionally, included in this definition are any activities in Rural Lands or Rural Residential Lands requiring a recreation-related Conditional Use Permit.

C5. RURAL LANDS - Including recreational uses (as defined by this document) - private or public tracts of land generally 35 acres or larger (see definition).

C5-3 Existing designated recreational uses within the Divide Region should be encouraged to be successful and encouraged to improve their facilities and operations.

C5-4 New recreational developments should be required to amend the Divide Growth and Conservation Maps using map amendment criteria attached to this Plan, as well as County Regulations.

C5-5 Cumulative impacts of recreational uses should be analyzed and considered as outlined in the attached criteria for amending maps for recreational use and all Conditional Use Permits.

Rural Resort is not mentioned in the DRP text because it was never intended to be a land designation. If it were a land designation it would be defined in the Definitions section and discussed in Section III of the DRP and it would be identified in the title of Addendum B.

For comparison, the John Wesley Ranch property is designated on the Divide map as Rural Lands (A-1 zone) and not Rural Resort. They have an approved CUP for Retreat, Recreational Facility (approved

on July 11, 2000). John Wesley Ranch is properly designated on the Divide Region Map. John Wesley Ranch has the same use allowed as other properties designated on the Growth and Conservation Maps as Town or Rural Resort, as long as those other properties have approved Special Review use permits. These maps are not the vehicle that gives special land use permissions.

Unrelated Comment - If a property owner desires to obtain usage rights associated with what Teller County identifies as a “Resort” they are welcome to do so. Refer to TCLUR Section 8.3.Y – *Resort* and Section 2.6.1 item 4 which identifies a Special Use Permit (SUP) is necessary for such a change. It requires a SUP on property zoned A-1. Obtaining such use permit would not change the Divide Region Growth and Conservation Map because this map is not a Special Review map identifying property with approved Conditional Use Permits (CUP) or Special Use Permit (SUP). Teller County does not have such a Special Review Map, but probably should; that is a subject for another day.

RURAL RESIDENTIAL – per the DRP, Rural Residential lands are the smaller (higher density than Rural Lands) residential parcels. Such parcels are full time or seasonal residences and may accommodate a home business, such as a cottage industry, as allowed in other Teller County planning documents, but should have minimal impact of surrounding property. The Divide Regional Plan includes the following statements:

RURAL RESIDENTIAL - generally consists of existing parcels of less than 35 acres, including existing subdivisions. Some parcels less than 35 acre tracts might be designated Rural Lands based on character and surroundings.

The DRP addresses this (Rural Residential) designation in item C4 and sub-items:

C4. RURAL RESIDENTIAL AREAS - Existing parcels of less than 35 acres

C4.01 Promote design and site planning compatible with the area's character.

C4.02 Protect existing neighborhoods from the intrusion of higher intensity land uses.

C4.03 Existing Rural Residential area may not expand without:

- (a) Paved road access from the Town Center adequate for the additional traffic.
- (b) Central water and sewer, paved roads, adequate fire safety, schools, and parks.
- (c) Reduction of 2 existing lots for each new lot created.

C4.04 Adhere to State and County noise regulations.

Rural Residential is not an appropriate planning area designation for large properties hosting resorts, retreat centers, camps or other similar businesses.

POTENTIAL DEVELOPMENT IN THE TOWN CENTER – The current Divide Town Growth and Conservation Map identifies an area as Town Resort (depicted with the Green Bar shading). This area is not a distinct parcel, but a part of a larger parcel zoned PUD (Planned Unit Development). No where else on any map is a portion of one parcel given a different designation. Maybe a better designation for the PUD parcel would be *Mixed Use*, but all that is really important is which Functional Planning Area is the parcel identified as – Potential Development is the correct Functional Planning Area.

As the comment on the map states “... refer to the Teller County Planning Department” for information regarding a specific property. The Final Plat maps and other information is available from the planning department for this PUD zoned property.

The Teller County Official Zone Map correctly identifies the PUD properties in the Divide Region.

Based on the above facts and arguments, we recommend removal of the unnecessary and confusing Legend items on the Divide maps and remove the unique shading for the appropriate properties in the two Divide maps contained in TCLUR Appendix B .

Text Change to TCLUR 1.7.D

The DRP is silent on changes to other documents. So there is no way to justify or not this change in the TCLUR based on what the DRP states. Despite there being no guidance in the DRP on this subject it is logical and makes sense to require definitions and explanations for terms used in regulatory land use regulations; especially maps.

Moratorium on Rural Resort

The DRP is silent on this topic also, therefore no reference to the DRP can be made for this topic. This request also makes sense to do, if legal to do so. We leave legality up to those with knowledge of such things.

Stop using an undefined term. If someone believes the term is necessary, they can define it and then it can be referenced where appropriate. But that would be a different application. This application is saying the term Rural Resort is not necessary and thus does not need to be defined, explained and referenced in Teller County planning documents.

Miscellaneous

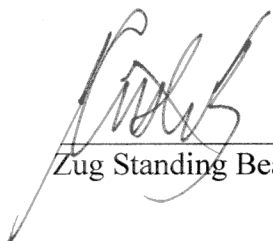
Personal comments that may or may not be relevant but deserve to be included.

Proper wording of Legends – Maybe it is just my technical background and other people have a different take, but when I went to school phases such as ***This or Something Else*** mean just that – it is either A or B. Town or Rural Resort means a *Town* or a *Rural Resort*. If what was meant was a resort in Town or resort in Rural Lands, e.g., Town Resort or Rural Resort the author(s) should have said that.

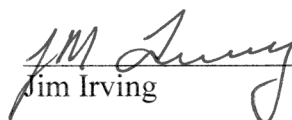
Marginally-related personal comment – One genesis for this application was the recent Golden Bell map amendment, resolution 7-8-13 (21). It is my opinion that map amendment was submitted solely to prevent application of the Divide Regional Plan Addendum B for review of a subsequent CUP application submitted by the same applicant. The subsequent CUP application, number CUP-00603(13), was not reviewed by the Divide Planning Committee (DPC) because the property in question no longer carried the designation *Rural Lands*. DRP Addendum B is only for Recreational Use on properties designated Rural Lands, not property with the designation Rural Resort. Whether intended or not, that was the result. The process followed (although it was legal) needs to be prevented from happening again. Removing undefined property designations from the Divide maps will help prevent this on future applications.

Resort-like business, while not manufacturing or supplying products, they are businesses that have customers which come to the establishment and thus impact the area. Whether for profit or non-profit, public or private, these are businesses regardless of what they call themselves: resort, church camp,

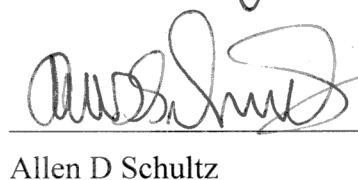
retreat, recreational facility, etc. They are in the service industry and have an impact on the local area. The use of these facilities needs to be monitored so the county can assess the cumulative impacts they impose on the community and the county as a whole.



Zug Standing Bear 19 Feb 14
Date



Jim Irving 19 Feb 2014
Date



Allen D Schultz 2/19/2014
Date